

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PharmacyChecker.com LLC,)	
)	
Plaintiffs)	Case No. 7:19-cv-7577-KMK
)	
v.)	Hon. Kenneth M. Karas
)	
National Association of Boards of Pharmacy, <i>et. al</i>,)	Oral Argument Requested
)	
Defendants.)	

JOINT NOTICE OF MOTION TO DISMISS BY DEFENDANTS

PLEASE TAKE NOTICE that Defendants National Association of Boards of Pharmacy (“NABP”), Alliance for Safe Online Pharmacies, Partnership for Safe Medicines, Inc., Center for Safe Internet Pharmacies Ltd., and LegitScript LLC (collectively “Defendants”), by their attorneys, hereby move this Court for an Order: (1) dismissing with prejudice Plaintiff’s Sherman Act § 1 claim against Defendants for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure; (2) dismissing with prejudice Plaintiff’s Lanham Act § 43(a) claim against Defendant NABP for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure; and (3) for such other and further relief as the Court deems just and proper. Defendants’ motion is supported by (i) Defendants’ Joint Memorandum of Law in Support of Defendants’ Joint Motion to Dismiss Sherman Act § 1 Claim and NABP’s Motion to Dismiss Lanham Act Claim; (ii) the Declaration of Erik T. Koons dated March 13, 2020 and the exhibits attached thereto; (iii) Declaration of Marjorie Clifton dated March 13, 2020 and the exhibit attached thereto; and (iv) any reply in support filed by Defendants.

PLEASE TAKE FURTHER NOTICE that the motion will be heard before the Honorable Kenneth M. Karas at the Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse, 300 Quarropas St., White Plains, New York on a date and at a time designated by the Court.

Dated: March 13, 2020

Respectfully submitted,

/s/ Erik T. Koons

BAKER BOTTS LLP
STEPHEN WEISSMAN
ERIK T. KOONS
JANA I. SEIDL
TIMOTHY P. SINGER
700 K Street, N.W.
Washington, D.C. 20001
202.639.7700
202.639.7890 (fax)
Email: stephen.weissman@bakerbotts.com
Email: erik.koons@bakerbotts.com

Attorneys for Defendant National Association of Boards of Pharmacy

/s/ Rachel J. Adcox

Rachel J. Adcox (*pro hac vice*)
Jeny M. Maier
AXINN, VELTROP & HARKRIDER LLP
950 F Street N.W.
Washington, D.C. 20004
Telephone: (202) 721-5406
Facsimile: (202) 912-4701
radcox@axinn.com
jmaier@axinn.com

Cristina M. Fernandez
AXINN, VELTROP & HARKRIDER LLP
114 W 47th Street, 22nd Floor
New York, NY 10036
Telephone: (212) 261-5668
Facsimile: (212) 728-2201

cfernandez@axinn.com

Counsel for Defendant Alliance for Safe Online Pharmacies

/s/ Leslie John

Leslie E. John (*pro hac vice*)

john@ballardspahr.com

Elizabeth P. Weissert (*pro hac vice*)

weisserte@ballardspahr.com

BALLARD SPAHR LLP

1735 Market Street, 51st Floor
Philadelphia, PA 19103
Phone: 215-665-8500

Jay N. Fastow (ID. 1541788)

fastowj@ballardspahr.com

Justin W. Lamson (ID. 770895)

lamsonj@ballardspahr.com

BALLARD SPAHR LLP

1675 Broadway, 19th Floor
New York, New York 10019
Telephone: (212) 223-0200

*Attorneys for Defendant,
Partnership for Safe Medicines, Inc.*

/s/ Barry Werbin

HERRICK, FEINSTEIN LLP

Barry Werbin

Nicholas Veliky

2 Park Avenue

New York, N.Y. 10016

212.592.1418

Email: bwerbin@herrick.com

Attorneys for Defendant Center for Safe Internet Pharmacies, Ltd.

GORDON REES

SCULLY MANSUKHANI, LLP

/s/ Ryan Sestack

Mercedes Colwin, Esq.

Ryan Sestack, Esq.

John T. Mills, Esq.

1 Battery Park Plaza, 28th Floor
New York, NY 10004
(212) 269-5500 (Phone)
(212) 269-5505 (Fax)
mcolwin@grsm.com
rsestack@grsm.com
jtmills@grsm.com

Attorneys for Defendant LegitScript LLC